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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/681,665

10/07/2003

Jacob L. Parres

PLI-1168

7279

24984

7590

11/10/2005

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EXAMINER

LAUX, JESSICA L

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/681,665	<b>Applicant(s)</b> PARRES, JACOB L.	
	<b>Examiner</b> Jessica Laux	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-7, 11 and 12 is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-10, 13-17 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention described in the specification and specified in the claims. Therefore, the hook and loop fastener that is attached by overlapping the fasteners from adjacent panels around the frame must be shown or the feature(s) canceled from the claim(s). Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. Figure 3 included in application 681665 does not provide for a proper understanding of the disclosed invention. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

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is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 8-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear as to the structure of the fabric bag covering and pad that is thereby formed, (ie, how does a fabric bag form a pad?). Fabric bags do not inherently form a pad and fabric bags and pads are not inherently easy to handle and provide

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external protection. Applicant must clearly describe such features as to make it clear to understand the form and function of the claimed subject matter.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Brown (6098335). Brown teaches a frame of tubular members comprising side and a top section. Brown further teaches side walls and a top that are releasably affixed to the frame with a hook and loop fastening (Col. 4, lines 18-19 and 51-52). Said side walls can be configured to include a door that is connected to the structure with hook and loop fastening (col. 4, lines 65 and continuing). The examiner interprets the hook and loop fastener of the door to inherently function as a hinge. Said frame is releasably connected so as to allow for disassembly for transportation.

Claims 1 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Gavin (4843788).

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In regards to Claim 1, Gavin teaches a modular enclosure comprising a frame comprising four sides and a top, and further comprising walls releasably attached to said frame and a door hingedly attached to said frame (Figs. 1 and 2).

In regards to Claim 13, Gavin teaches an enclosure comprising accommodations for lighting and ventilation (col. 2, lines 26-28)

In regards to Claim 14, Gavin teaches a window in a wall comprising a transparent pane (col 1, lines 59-61; col. 2, lines 36-37).

In regards to Claim 15, Gavin teaches an enclosure that can be adjusted to utilize independent ventilation (col. 2, lines 31-34). The examiner interprets an independent ventilation system mounted on the room to be equivalent to a fan disposed in an opening.

In regards to Claim 16, Gavin teaches an enclosure that can be adjusted to utilize independent lighting (Col. 2, lines 31-34). The examiner interprets independent lighting to be equivalent to a light disposed in the enclosure for illumination.

Claim 19 is rejected under 35 U.S.C. 102(e) as being anticipated by Rozenberg (2004/0111983. Rozenberg teaches a modular structure that is disassembled conveniently and comprises panels arranged in such a manner as to create an enveloped space and includes a door (Fig 1; paragraph 0009).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (6098335) in view of Lashinger (5660002). Brown teaches a detachable frame made of tubular members, but does not teach the material the tubular members are made of. Lashinger discloses a frame made of PVC (thermoplastic) tubular members. It would be obvious to one of ordinary skill in the art at the time the invention was made to modify the tubular members as taught by Brown to be made from PVC because it is readily available, cost effective, and easy to use.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown. Brown teaches the components of the structure, as in Claim 1 above, to be packaged in a simple container (Col 6, lines 8-10). The examiner interprets a simple container to be equivalent to a bag.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (6098335) in view of Robinson (2002/0069904). Brown teaches an enclosure as in Claim 1 above. Brown does not teach an enclosure comprising a mat underneath said enclosure. Robinson teaches an enclosure comprising a mat to be placed under said enclosure (paragraph 0028). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the enclosure as taught by Brown with the mat as taught by Robinson as it protects the interior of the enclosure from the elements.

***Allowable Subject Matter***

Claims 5-7, 11-12 and 18 are allowed.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 8:30am to 4:00pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL – 11/03/2005



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600